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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,247	09/10/2003	Jace N. Green	025636-0109	4809
26371	7590	01/26/2005	EXAMINER	
FOLEY & LARDNER 777 EAST WISCONSIN AVENUE SUITE 3800 MILWAUKEE, WI 53202-5308			LU, JIPING	
			ART UNIT	PAPER NUMBER
			3749	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/659,247	Applicant(s) GREEN ET AL. 6P	
	Examiner Jiping Lu	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 and 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/10/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Invention I, claims 1-12 and 21-23 in the reply filed on 11/1/2004 is acknowledged.

2. Claims 13-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in the reply filed on 11/1/2004.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hamilton (U. S. Pat. 2,805,559).

Hamilton shows an evaporative cooler comprising a housing 10, a fan (in 25), a duct system 27, 37 for directing air into an opening in a building (see col. 3, lines 30-33) which are arranged same as claimed.

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 2-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Galeazzi et al. (EP 0718564A2).

The evaporative cooler of Hamilton as above includes all that is recited in claims 2-8 except for the duct system with an extension portion that is positioned within the window of the building. Galeazzi teaches a portable air conditioning equipment with a duct system 17 having an extension portion 18 positioned within the opening in the window same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the duct system of Hamilton with a duct system having extension portion of Galeazzi et al. in order to direct air into the window and to facilitate the use of evaporative cooler.

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8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Galeazzi et al. (EP 0718564A2) as applied to claim 8 above, and further in view of Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744).

The evaporative cooler of Hamilton as modified by Galeazzi et al. as above includes all that is recited in claim 9 except for the adjustable legs. Patent to Campbell et al. or Cavender teaches an evaporative cooler with adjustable legs for leveling the cooler same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporative cooler of Hamilton with adjustable legs as taught by Campbell et al. or Cavender in order to facilitate the installation of the evaporative cooler.

9. Claims 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Galeazzi et al. (EP 0718564A2) and Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744) as applied to claim 9 above, and further in view of Grandinetti (U. S. Pat. 2,620,638).

The evaporative cooler of Hamilton as modified by Galeazzi et al. and Campbell et al. or Cavender as above includes all that is recited in claims 10-12 except for the expandable frame between the window and the extension member. Patent to Grandinetti teaches an evaporative cooler with expandable frame 111 for mounting duct member to the window same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporative cooler of Hamilton with expandable frame as taught by Grandinetti in order to facilitate mounting the extension member to the window.

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10. Claims 21-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hamilton (U. S. Pat. 2,805,559) in view of Campbell et al. (U. S. Pat. 4,819,448) or Cavender (U. S. Pat. 6,546,744).

Hamilton shows an evaporative cooler comprising a housing 10, a fan (in 25), a duct system 26, 27, 37 for directing air into an opening in a building (see col. 3, lines 30-33) which are arranged same as claimed. The evaporative cooler of Hamilton includes all that is recited in claims 21-23 except for the adjustable legs. Patent to Campbell et al. or Cavender teaches an evaporative cooler with adjustable legs for leveling the cooler same as claimed. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the evaporative cooler of Hamilton with adjustable legs as taught by Campbell et al. or Cavender in order to facilitate the installation of the evaporative cooler.

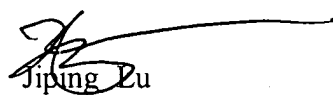
Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jiping Lu whose telephone number is 571 272 4878. The examiner can normally be reached on Monday-Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on 571 272-4877. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jiping Du
Primary Examiner
Art Unit 3749

J. L.